

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 2
93RD GENERAL ASSEMBLY

Reported from the Committee on Children and Families May 9, 2005 with recommendation that House Committee Substitute for Senate Bill No. 2 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0424L.11C

AN ACT

To repeal sections 188.015 and 188.075, RSMo, and to enact in lieu thereof four new sections relating to abortion, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 188.015 and 188.075, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 188.015, 188.031, 188.075, 188.250 to read as follows:

188.015. [Unless the language or context clearly indicates a different meaning is intended, the following words or phrases for the purposes of sections 188.010 to 188.130 shall be given the meaning ascribed to them] **As used in this chapter, the following terms mean:**

(1) "Abortion", the intentional destruction of the life of an embryo or fetus in his or her mother's womb or the intentional termination of the pregnancy of a mother with an intention other than to increase the probability of a live birth or to remove a dead or dying unborn child;

(2) "Abortion facility", a clinic, physician's office, or any other place or facility in which abortions are performed **or induced** other than a hospital;

(3) "Conception", the fertilization of the ovum of a female by a sperm of a male;

(4) "Department", the department of health and senior services;

[(4)] (5) "Gestational age", length of pregnancy as measured from the first day of the woman's last menstrual period;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(6) "Medical emergency", a condition which, on the basis of a physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert the death of the pregnant woman or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function of the pregnant woman;

[(5)] (7) "Physician", any person licensed to practice medicine in this state by the state board of registration of the healing arts;

[(6)] (8) "Unborn child", the offspring of human beings from the moment of conception until birth and at every stage of its biological development, including the human conceptus, zygote, morula, blastocyst, embryo, and fetus;

[(7)] (9) "Viability", that stage of fetal development when the life of the unborn child may be continued indefinitely outside the womb by natural or artificial life-supportive systems.

188.031. For purposes of section 188.028, the term "next friend" shall not include another minor child, or any entity or person in an individual or representative capacity that has a financial interest or potential gain from the proposed abortion, or any employee of or volunteer for such entity or person.

188.075. 1. Any person who contrary to the provisions of sections 188.010 to 188.085 knowingly performs, **induces**, or aids in the performance **or inducing** of any abortion or knowingly fails to perform any action required by sections 188.010 to 188.085 [shall be] **is, unless a different penalty is provided for in another section,** guilty of a class A misdemeanor and, upon conviction, shall be punished as provided by law.

2. It shall be a defense for any person alleged to have violated any provision of this chapter that the person performed an action or did not perform an action because of a medical emergency. This defense shall be available in criminal, civil, and administrative actions or proceedings. The defendant shall have the burden of injecting the issue of medical emergency as a defense.

188.250. 1. No person shall intentionally cause, aid, or assist a minor to obtain an abortion without the consent or consents or judicial decree required by section 188.028.

2. A person who violates subsection 1 of this section shall be civilly liable to the minor and to the person or persons required to give the consent or consents pursuant to section 188.028. A court may award damages to the person or persons adversely affected by a violation of subsection 1 of this section, including compensation for emotional injury without the need for personal presence at the act or event, and the court may further award attorneys' fees, litigation costs, and punitive damages. Any adult who engages in or consents to another person engaging in a sex act with a minor in violation of the provisions of chapter 566, 567, 568, or 573, RSMo, which results in the minor's pregnancy shall not be awarded damages pursuant to this section.

3. It shall not be a defense to a claim brought pursuant to this section that the abortion was performed or induced pursuant to consent to the abortion given in a manner that is otherwise lawful in the state or place where the abortion was performed or induced.

4. An unemancipated minor does not have capacity to consent to any action in violation of this section or section 188.028.

5. A court may enjoin conduct that would be in violation of this section upon petition by the attorney general, a prosecuting or circuit attorney, or any person adversely affected or who reasonably may be adversely affected by such conduct, upon a showing that such conduct:

- (1) Is reasonably anticipated to occur in the future; or**
- (2) Has occurred in the past, whether with the same minor or others, and that it is not unreasonable to expect that such conduct will be repeated.**

Unofficial

Bill

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